

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARVEL DANIEL, #344042,

Petitioner,

Civil No: 07-CV-12042  
Honorable John Corbett O'Meara  
Magistrate Judge R. Steven Whalen

v.

CINDI CURTIN,

Respondent.

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**ORDER OF DISMISSAL**

Petitioner filed a petition for writ of habeas corpus on May 10, 2007, but failed to submit the requisite filing fee or application to proceed *in forma pauperis* pursuant to 28 U.S.C. §1914(a); 28 U.S.C. §1915; or Rule 3 of the Rules Governing §2254 Cases. The Court entered an Order on June 7, 2007 directing the Petitioner to submit the requisite filing fee or application and that failure to do so may result in the dismissal of this case. However, Petitioner's residential status changed; and since the Court was not notified, the Order was mailed to Petitioner at his former place of incarceration, Oaks Correctional Facility, but was returned. As a courtesy, the Court issued another Order on July 25, 2007 and mailed it to where he is currently incarcerated, Macomb Correctional Facility, giving Petitioner an additional 21 days in which to correct the deficiency. To date, Petitioner has not complied with this Court's Order to correct the filing deficiency.

Accordingly,

IT IS ORDERED that this action is **DISMISSED** without prejudice for failure to

prosecute and for failure to comply with the Court's previous order. Fed. R. Civ. P. 41(b); Local Rule 41.2 (E.D. Mich. Mar. 2, 1998).

IT IS FURTHER ORDERED that Petitioner's "Motion to Hold Habeas in Abeyance or Tolling of the Statute of Limitations" [**Doc. 5-1, filed August 13, 2007**] is **DENIED** as **MOOT**.

s/John Corbett O'Meara  
United States District Judge

Dated: September 7, 2007

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, September 7, 2007, by electronic and/or ordinary mail.

sWilliam Barkholz  
Case Manager